

coercive. Except for the proscriptions of Section 8 (b) (4) (C) of the Act there is no limitation upon a peaceful primary strike for recognition and lawful picketing incident thereto. The announcement, even if made by a union representative, that the Union would continue to exert economic pressure in the event of defeat at the polls cannot be unlawful if the intended economic pressure itself is lawful.

Even were it to be found that Jefferson informed Morris that he would be laid off if he did not vote in favor of the Union the election should stand. When viewed in the light of the Company's assurances made on July 6 and on the day of the election it is difficult to envisage a coercive effect. The Union was certainly not in a position to carry out this threat, and the record reveals that employees were clearly informed of this. In any event Jefferson was not at this time connected with the Union other than as an active member and this fact must be weighed in considering any possible coercive effect of his remarks.³ The undersigned concludes that none of the remarks addressed to Morris can be said to have been reasonably calculated to have affected the results of the election. The undersigned concludes that there is no evidence of conduct on the part of the Union or its agents affecting the results of the election so as to warrant its being set aside and, therefore, it is recommended that the objections be dismissed and the Union certified as the representative of the majority of the employees of the Company in the unit hereinbefore found appropriate.

³ *Mallinckrodt Chemical Company, supra.*

A. O. SMITH CORPORATION *and* LOCAL 4, MECHANICS EDUCATIONAL SOCIETY OF AMERICA, PETITIONER. *Case No. 8-RC-1301. February 6, 1952*

Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Bernard Ness, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Murdock].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organizations involved claim to represent employees of the Employer.¹
3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act for the following reasons:

¹ International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, CIO, and American Federation of Labor were permitted to intervene.

The Petitioner seeks to represent separate units of the Employer's tool and die makers and related categories, tool inspection employees, and maintenance employees. As an alternative, it would represent the three groups in a single unit. The Employer and Intervenors contend that the petition was prematurely filed and that there is at present no representative group of employees within the unit or units requested by the Petitioner.

The Employer is in the process of establishing a substantial plant for the production of landing gears for military aircraft. In January 1951 it leased an old plant and started to rehabilitate, modernize, and build some additions to it to suit its purposes, and to acquire and install therein the necessary machinery and equipment.

The Employer planned to begin the construction of a model of its product in January 1952, and to engage in regular production work by the end of 1952. However, because of shortages in certain raw materials, the uncertainty as to whether all the necessary machinery and equipment would be delivered to the plant as originally scheduled, and also uncertainty that the necessary skilled manpower would be available, it was unable to state definitely that its original plans would be carried out as scheduled.

At the time of the hearing,² neither the rehabilitation of the plant nor the installation of machinery and equipment had yet been completed. Although some 50 percent of the machinery had been delivered to the plant, not all of it had been finally placed. At least one-half of the undelivered machinery would not duplicate or resemble any of the machinery then in the plant.

Out of a scheduled labor complement of 1,700 to 1,800 employees, there were only 168 then employed, including employees of various skills, and a substantial number who had no experience in any trade.

For administrative convenience, the Employer placed these employees into two pools: (1) maintenance and (2) a common pool of labor available for tasks of any sort throughout the plant.³ In the first, the Employer has placed all the employees capable of performing the usual maintenance tasks, such as electricians, carpenters, painters, powerhouse employees, and others. All other newly hired employees have been placed in the common pool. The Employer expected to have about 250 employees by the end of 1951, about 700 by the end of the first quarter of 1952, about 1,200 by the end of the second quarter of 1952, and its complete labor complement by January 1953 when it expects to attain normal production.

The maintenance employees have not as yet been segregated into a separate location. There is little of the type of maintenance work that

² November 7, 1951.

³ For accounting purposes, the Employer designated the common pool as department 48.

usually accompanies the normal operation of a plant, because commercial production has not yet begun. The maintenance employees are now mainly occupied with rehabilitation of the plant, the repair and setting up of machinery and equipment, the removal of surpluses, and the receipt of incoming materials. The Employer expects to make use of a reduced maintenance group when the plant attains normal production. The tasks and classifications of the permanent group have not yet been determined.

The general pool of employees includes both skilled and unskilled employees. The Employer expects to draw from this pool most of its supervisory personnel. While there are in this group several tool and die makers as well as other craftsmen, and although some of them do make dies and jigs for experimental and training purposes, the tool and die makers do not work as a craft group and are not identifiable as such a group. The skilled and experienced employees are mainly occupied in doing experimental work and in training the unskilled employees. As yet, the Employer is unable definitely to predict in what capacity any of these employees will eventually work.

In view of the fact that most of the anticipated employee complement has not yet been employed, and as the record indicates that the composition of the unit or units sought by the Petitioner has not yet become fixed, and the employees at present engaged in rehabilitation, training, and experimental work are not definitely representative of the anticipated work force, we believe that the present petition is premature.⁴ We shall therefore dismiss the petition without prejudice to its refiling at an appropriate later date.

Order

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

⁴ *Westinghouse Electric Corporation*, 85 NLRB 1519; *Coast Pacific Lumber Company*, 78 NLRB 1245. Cf. *Ford Motor Company, Aircraft Engine Division*, 96 NLRB 1075; *Bell Aircraft Corporation*, 96 NLRB 1211.

SIR JAMES, INC. and CUTTERS' LOCAL #84, INTERNATIONAL LADIES' GARMENT WORKERS' UNION, A. F. OF L., PETITIONER. *Case No. 21-RC-2086. February 6, 1952*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before George H. O'Brien, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.